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Supreme Court, U.S.
FILED

CASE #: _____ 071021 AUG 20 2007

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

JUNG BEA HAN,

Petitioner,

versus

GE CAPITAL SMALL BUSINESS

FINANCE CORPORATION,

Respondent

On Petition For Writ of Certiorari To The United States Court of Appeals For the Eleventh Circuit

Case #: 07-10349-FF

JUNG BEA HAN
5340 E. Avenida De Golf,
Milton, Florida, 32571
850-620-2060

CASE #: _____

IN
SUPREME COURT OF THE UNITED STATES

JUNG BEA HAN

Petitioner,

versus

GE CAPITAL SMALL BUSINESS
FINANCE CORPORATION

Respondent

Certificate of Compliance with the Words Limitations

I certify that this petition complies with words (1815 words) limitation set forth in the Supreme Court Rule 33.1(g)(i)

JUNG BEA HAN
5340 E. Avenida De Golf,
Milton, Florida, 32571
850-623-2060.

CASE #: _____

IN THE
SUPREME COURT OF THE UNITED STATES

JUNG BEA HAN,

Petitioner,

versus

GE CAPITAL SMALL BUSINESS

FINANCE CORPORATION,

Respondent

CERTIFICATE OF SERVICE

I HEREBY certify that a true and correct of the foregoing has been

furnished by U.S. mail to Mandel, Daniel S., 7251 W. Palmetto Park, Suit 306,

Boca Raton, FL 33433 this day 17 of september, 2007.

JUNG BEA HAN
5340 E. Avenida De Golf,
Milton, Florida, 32571
850-623-2060.

QUESTION PRESENTED

Is It lawful that the Lower Court Changed the Appellant's Docket Number Without His Permit When the Low Court Filed His Appealing Case to the Eleventh Circuit Court?

Jungbhn@aol i

Certificate of Interested Person

JUNG BEA HAN v. GE Capital Small Business
Case No. _____

The undersigned certifies pursuant to supreme court Rule 14.1(b) that the following persons have an interest in the outcome of this particular case:

Daniel S. Mandel, Counsel for Defendants/ Respondent

Elizabeth M. Timothy, United States Magistrate Judge

Jung Bea Han, plaintiffs/Appellants

M. Casey Rogers, United states District Judge

Wilson and Pryor, Circuit Judges

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28 U.S.C 1291
28 U.S.C 1254

Federal Rules of Procedure

Bankruptcy Rule 8003(c)
Bankruptcy Rule 8015
Bankruptcy Rule 9029(a)(2)

I. STATEMENT OF THE BASIS FOR JURISDICTION

The jurisdiction of this Court is based upon 28 U.S.C 1254, which provides, in part, "cases in the Courts of appeals may be reviewed by the Supreme Court by the following methods; (1) by writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;"

And the jurisdiction of the circuit court was based upon 28U.S.C 1291, which provides, in part, "the court of appeals...shall have jurisdiction of appeals from all final decisions of the district courts of the united states....., except where a direct review may be had in the supreme Court."

II. STATEMENT OF THE CASE

Petitioner filed the appeal to the United States Court of Appeals for the Eleventh Circuit on Jan. 7, 2007. The United States District Court for the Northern District Pensacola Division changed the docket number and then filed to the Circuit.

The docket number, which the petitioner wants to be reviewed by the Circuit Court, never have ever been reviewed by the Circuit. Accordingly, Petitioner requested to correct the docket number to the Circuit, the request has been denied on June 25, 2007.1

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1 Appendix 1

III. THE REASONS FOR GRANTING THE WRIT

1. COURSE OF PROCEEDINGS IN THE DISTRICT COURT

According to "the certified civil docket for case" dated February 8, 2007 done by Deputy Clark William M. McCool, this docket number: 3:06-CV-474-MCR-EMT has been prevailed since October 25, 2006 under the district court.

The final decision of the lower court dated December 21, 2006 was for this docket number(3:06-CV-00474-MCR-EMT), but not for October 2004 case number: 04-00127 cv-3-MCR-EMT.2

Jungbhn@aol 3

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2 Appendix 5

After the day, the motion for rehearing 3 filed by Petitioner dated December 26, 2006 was for the docket number (3:06-CV-00474-MCR-EMT), however, Petitioner here filed in error writing case number. For it, the lower court treated the motion as a motion for rehearing on behalf of 2004 case which had been already closed even though the motion meet the requirements for "motion for rehearing" on the ground of Bankruptcy
Rule 8015, 8003(c) with attached with the Order done by the current case number (3:06-CV-00474-MCR-EMT) under the proceeding of the docket number: 3:06-CV-00474-MCR-EMT . The lower court disposed the motion.

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3 Appendix 6

Accordingly, pursuant to Rule 6(b)(2)(A) of the Federal Rule of Appellate Procedure, the Amend Notice of Appeal to the United States Court of Appeals for the Eleventh Circuit has been appealed by Petitioner dated January 12, 2007.

However, the lower court crossed out the docket number: 3:06-CV-00474-MCR-EMT by itself and then changed into the number: 04-00127-CV-3-MCR-EMT which was 2004's case number. It is common sense that the changed docket number by the lower court can not be jurisdiction under the United States Court of Appeals for the Eleventh Circuit, however, the lower court did so.

Since then, Petitioner requested the Circuit Court that the docket number should be corrected and that the corrected docket number case should be reviewed by the Circuit Court. However, the request has been denied.

2. SUMMARY OF ARGUMENT

0. Is the appealing proceeding at the district court from the Bankruptcy Court applicable to the Rule of Federal Rules of Civil Procedure?

The report and recommendation done by Elizabeth M. Timothy of the magistrate Judge was under the Bankruptcy Rule 8006 of the part VIII-Appeals District Court of the bankruptcy rules. 4

In response to the recommendation, the objection was filed by Petitioner with the motion which was grounded on Bankruptcy Rule 8011 under the Part VIII-Appeals to District Court of the bankruptcy rules as the same rule as the Magistrate Judge has done. Because the appealing proceeding was from the Bankruptcy

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5 Appendix 7

Court to the District Court, the rules must be governed under the Part VIII-Appeals to District Court of the bankruptcy rules whatever Petitioner made in error writing case number.

For instance, Petitioner wrote the correct appealing case number on the document of "Response (objection) to the Proposed Finding and Recommendations," and requesting to accept the following revised designation which indicates "the Motion".

The first page was written by the appealing case number:

3:06cv474/MCR/EMT with the title of "Response (objection) to the Proposed Finding and Recommendations and Motion to grant the revised designation of the record on appeal,"

and then the revised designation on the next pages was written by the 2004 case number in error.

Is it legitimate that the appealing proceeding was applied to the Federal Rule of Civil Procedure due to the error in part writing the case number ? And also, Is it lawful that both civil proceeding and appealing proceeding are going on under the proceeding by the same judge?

In spite of that Petitioner as well as the lower court recognized this fact that Petitioner did not mention the 2004 case, the District Court applied the Federal Rules of Civil Procedure under the Appealing Proceeding from the Bankruptcy. The Court made Petitioner's rights lost because of a non-willful failure to comply with the requirement by applying the Federal Rules of Civil Procedure under the appealing proceeding.

Whether the "Motion for rehearing" after the Final Order was not existed or not under the appealing proceeding, it is the fact that "the motion for rehearing" has been disposed by the District Court in terms of Petitioner position in any way. This matter becomes the appealing subject

matter to the higher court. Accordingly, Petitioner filed the appeal to the Circuit Court with the Docket Number: 3:06cv474/MCR/EMT.

The District Court should have submitted the Petitioner's Appeal Notice as it was without changing the docket number. Its action becomes to despise the Petitioner's rights.

It is common sense that if Han file 2004 case this case should be lack of jurisdiction under the higher Court.

If the lower court has authority to change case number on Han's document, why did not correct the appealing case number 3:06cv474/MCR/EMT into "the motion to rehearing" which was written in error?

Those evidences show that the lower court drives this case to be dismissed in any ways. Under such predudice, what kinds of relief is Petitioner expecting from the lower court? Petitioner respectfully request this honorable Court that the Eleventh Circuit Court be granted Petitioner to stand before for this relief rather than the lower court.

0. The Correct Docket Number Case Should be Reviewed by the United States of Appeal Court for the Eleventh Circuit.

Petitioner did not appeal the docket number case to the Circuit Court. Because the Lower Court changed into the docket number case, the docket number case, which Petitioner requested to be reviewed by the Circuit Court, never have ever been done so far. This is not justice if this case will be closed without be granting any opportunity to be reviewed by the Circuit Court.

IV. CONCLUSION

1. According to the certified docket report of the true copy dated February 8, 2007, done by Deputy Clark William M. McCool, the appealing case number: 3:06cv474/MCR/EMT has been prevailed since October 25, 2006.

2. The Final decision of the District Court dated December 21, 2006, was for the Appealing Case(3:06cv474/MCR/EMT), but not for October 2004 Case.

3. "The Motion for rehearing" filed by Petitioner dated December 26, 2007, was for the Appealing Case, but not for October 2004 Case.

4. "The Motion for Rehearing" has been disposed by the District Court on January 4, 2007, in any way, under the Appealing Proceeding, but not under October 2004 Case Proceeding.

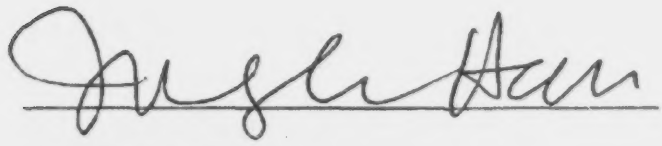
5. Accordingly, pursuant to Rule 6(b)(2)(A) of the Federal Rule of Appellate Procedure, "the Amend Notice of Appeal to the United States Court of Appeals for the Eleventh Circuit has been filed by Petitioner dated January 12, 2007.

6. However, the District Court did not submit "the Amend Notice of Appeal" as it was, but the notice which has been changed into the October Case Number.

WHEREFORE, Based on the arguments presented , petitioner respectfully request this honorable Court that the Circuit Court review the correct docket number case and that this action for a trial on the merits be done by the higher Court.

This day 29 of August, 2007

Submitted by



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IN THE UNITED STSTES COURT OF APPEAL
FOR THE ELEVENTH CIRCUIT

No. 07-10349-FF

JUNG BEA HAN, Plaintiff-Appellant

versus

GE CAPITAL SMALL BUSINESS FINANCE CORPORATION,

Defendant-Appe

Appeal from the United States District Court for the Northern District of Florida

---

BEFORE: BLACK and MARCUS, Circuit judges,

BY THE COURT:

Apellant's motion for reconsideration of this Court's April 12, 2007, order denying appellant's motion to reinstate appeal is DENIED.

APRIL 12 2007

APPENDIX 1

IN THE UNITED STSTES COURT OF APPEAL
FOR THE ELEVENTH CIRCUIT

No. 07-10349-FF

JUNG BEA HAN, Plaintiff-Appellant

versus

GE CAPITAL SMALL BUSINESS FINANCE CORPORATION,

Defendant-Appe

Appeal from the United States District Court for the Northern District of Florida

---

BEFORE: BLACK and MARCUS, Circuit judges,

BY THE COURT:

Appellant's motion to reinstate appeal is DENIED.

APRIL 12 2007

APPENDIX 2

IN THE UNITED STSTES COURT OF APPEAL
FOR THE ELEVENTH CIRCUIT

No. 07-10349-FF

JUNG BEA HAN, Plaintiff-Appellant

versus

GE CAPITAL SMALL BUSINESS FINANCE CORPORATION,

Defendant-Appe

Appeal from the United States District Court for the Northern District of Florida

---

BEFORE: BLACK and MARCUS, Circuit judges,

BY THE COURT:

Appellant's motion to reinstate appeal is DENIED.

MARCH 02 2007

APPENDIX 3

JUNG BEA HAN,
Appellant,

vs. Case No.:3:06cv474/MCR/EMT

GE CAPITAL SMALL BUSINESS
FINANCE CORPORATION,
Appellee,
_____/

ORDER

This cause comes on for consideration upon the magistrate judge's report and recommendation dated November 17, 2006. Appellant has been furnished a copy of the report and recommendation and has been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1). I have made a de novo determination of any timely filed objections.

Having considered the report and recommendation, and any objections thereto timely filed, I have determined that the report and recommendation should be adopted.

Accordingly, it is now ORDERED as follows;

1. The magistrate judge's report and recommendation is adopted and incorporated by reference in this order.
2. This case is dismissed.

Done and ordered this 31st day of December. 2006.

_____
M. CASEY ROGERS
UNITED STATES DISTRICT JUDGE

APPENDIX 5

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA PENSACOLA DIVISON

JUNG BEA HAN,
Appellant,

vs. Case No.:3:06cv474/MCR/EMT

GE CAPITAL SMALL BUSINESS FINANCE CORPORATION,
Appellee,
_____/

REPORT AND RECOMMENDATION

This cause is before the court upon Appellant's notice of appeal from two orders of the Bankruptcy Court (Doc.2). However, Appellant failed to file a designation of the record on appeal as required by Bankruptcy Rule 8006 (*see* Doc. 2, attach.1, Bankruptcy Transmittal Sheet; *see also id.*, attach. 8, Certified Docket Report from Bankruptcy Proceeding, Doc. 55) Therefore, this action is subject to dismissal. See In re: Dennis & Linda Martin, Case No. 3:00cv008/LAC (N.D. Fla. Feb. 8, 2000) ((Doc.2) order of dismissal for failure to file designation as required by Rule 8006).

Accordingly, it is respectfully RECOMMENDED:
That this case by DISMISSED.
At Pensacola, Florida this 17th day of November 2006.

_____
ELIZABETH M. TIMOTHY
UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA PENSACOLA DIVISON

MOTION FOR REHEARING

The undersigned, Jung Bea Han, files this motion for rehearing pursuant to Rule 8015 of Bankruptcy Rules and in accordance to the Local Rule 7.1(B)(3) of the Northern District of Florida as the following grounds;

1. Appellant Han had filed the designation of the record on appeal mistakenly as the notice of appeal after Han received the notice of the clerk of Bankruptcy.

For it, on November 21, 2006 as the personal service, Appellant Han verified that the clerk received the second notice of appeal on time.

APPENDIX 7

2. The Rule of 8003(c) of Bankruptcy Rules indicates like this;

(c) Appeal improperly taken regarded as a motion for leave to appeal

If a required motion for leave to appeal is not filed, but a notice of appeal is timely filed, the district court or bankruptcy appellate panel may grant leave to appeal or direct that a motion for leave to appeal be filed. The district court or the bankruptcy appellate panel may also deny leave to appeal but in so doing shall consider the notice of appeal as a motion for leave to appeal. Unless an order directing that a motion for leave to appeal be filed provides otherwise, the motion shall be filed within 10 days of entry of the order.

This Rule provides that a motion for leave to appeal is required before dismissing this case when a notice of appeal is timely filed. Appellant Han has filed the notice of appeal on time and then filed secondly the notice of appeal for the Designation of the Record on Appeal. Han never intended to leave to appeal.

And also, this Rule provides that if Appellant Han mistakenly believes the order appealed from is final and files only a notice of appeal, the appeal is not automatically dismissed.

3. After Appellant Han filed motion to grant this revised designation of the record on appeal, the District Court has done and ordered dated 6th day of December, 2006 that

The document shall remain in the electric file, but the court will not consider it until you have corrected the above deficiencies through the filing of a corrected document. The document is denied without prejudice with leave given to refile after correction.

This order grants that Appellant Han do the action to correct the deficiencies through the filing of a corrected documents and also grants Han to refile after the correction.

On the ground of the order, Appellant Han sent the Memoranda dated December 8, 2006 to the Appellee in accordance to the Local Rule 7.1(B) of the Northern District of Florida in order to correct the defficience as well as to refile the documents. For it, the Local Rule provides 14 days, which are not included Saturday, Sunday, and Christmas holiday, to the Appellant Han to complete the deficiencies, that is, until December 31, 2006. Thus, the order dated 6th of December, 2006 is still effective. Before refilling and correcting the deficiencies, the order dismissed this case dated 21st of December, 2006 may be not proper.

Appellant Han sincerely and respectfully ask that the final opportunity to review the amended designation of the record on appeal would be granted by this Court. And also Appellant Han has done his best to comply with this proceedings on timely and has been running for a few years to stand before this District Court.

THREFORE, the undersigned, JUNG BEA HAN, sincerely prays that the motion for rehearing be granted by this Court.

I hereby certify that true and correct copy of the forgoing has been furnished by U.S mail to Mandel, Daniel s. 2101 Corporate Blod., suite 300, Boca Raton, Fl 33431 this day 24th of December, 2006.

5340 Avenida De Golf,
Milton, Fl 32571.
(850)623-2060/438-4773

JUNG BEA HAN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA

In Re:
JUNG BEA HAN,

Appellant/Plaintiff

Vs. Case No.: 3:06cv474/MCR/EMT

GE CAPITAL SMALL BUSINESS
FINANCE CORPORATION,

Appellee/Defendant

RESPONSE (objection) TO THE PROPOSED FINDING AND RECOMMENDATIONS, AND MOTION TO GRANT THIS REVISED DESIGNATION OF THE RECORD ON APPEAL

COMES NOW, the undersigned, JUNG BEA HAN (hereinafter referred to as "HAN"), files this response (objection) to the proposed finding and recommendations done by the HONORABLE UNITED STATES MAGISTRATE JUDGE, ELIZABETH M. TIMOTHY dated 17th day of November 2006, and respectfully submits this motion to grant this revised designation of the record on appeal to The United Sates District Court of Northern Distract OF Florida as the following;

APPENDIX 8

1. Appellant Han has filed the designation of the record on appeal on timely after Han received "the notice of filing notice of appeal" done by the Clark of Court of the Bankruptcy Court dated September 22, 2006.
2. The designation of the record on appeal, which Appellant Han filed after the notice, was out of form of briefs, however, real meaning which Han intends to describe on the designation of the record on appeal, which this Court requires, was totally included in there.
Therefore, appellant Han sincerely and respectfully prays that this Court grant this motion to accpet the following revised designation of the record on appeal.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail to MANDEL, DANIEL S. 2101 Corporate Blvd., Suite 300, Boca Raton, FL 33431 this day 23th of November 2006.

5340 Avenida De Golf
Milton, FL 32571
Tel. (850) 438-4773

_____

JUNG BEA HAN

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FILED
MAR 10 2008
OFFICE OF THE CLERK
SUPREME COURT, U.S.

No. 07-1021

IN THE

Supreme Court of the United States

JUNG BEA HAN,

Petitioner,

v.

GE CAPITAL SMALL BUSINESS FINANCE CORPORATION,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

BRIEF IN OPPOSITION

DANIEL S. MANDEL
LAW OFFICE OF DANIEL S. MANDEL, P.A.
7251 W. Palmetto Park Road
Suite 306
Boca Raton, FL 33433
(561) 826-1740

Counsel for Respondent

214505

COUNSEL PRESS
(800) 274-3321 • (800) 359-6859

QUESTION PRESENTED

Whether Petitioner has presented compelling reasons to grant the Petition where the Eleventh Circuit's Order Denying a Motion to Reinstate Appeal and a subsequent Order Denying a Motion for Reconsideration of the Order Denying Motion to Reinstate Appeal does not conflict with the decisions of this Court or a Court of Appeals, and Petitioner does not claim that the Eleventh Circuit's Orders implicate an important federal question that has not been settled by this Court.

CORPORATE DISCLOSURE STATEMENT PURSUANT TO SUPREME COURT RULE 29.6

Respondent, GE Capital Small Business Finance Corporation, is a Delaware corporation which is a wholly owned subsidiary of General Electric Capital Corporation. One hundred percent (100%) of the stock of GE Capital Small Business Finance Corporation is owned by General Electric Capital Corporation.

General Electric Capital Corporation is also a Delaware corporation which is a wholly owned subsidiary of General Electric Company. One hundred percent (100%) of the stock of General Electric Capital Corporation is owned by General Electric Company. General Electric Capital Corporation is not a publically traded stock. However, General Electric Company is a publically traded entity.

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23 Moores Federal Practice, § 510-33(4)(a) (Matthew Bender 3d Ed.) 4

Statute:

11 U.S.C. § 362(k) 6

Rule:

Sup. Ct. R. 10 ..... 1, 3

INTRODUCTION

The Petitioner has presented no compelling reasons for his Petition for a Writ Certiorari to be granted. Pursuant to Sup. Ct. R. 10, this Court will only grant a petition for the grounds set forth in the rule. Specifically, Petitioner fails to demonstrate that the Eleventh Circuit's June 25, 2007 Order Denying Petitioner's prior Motion to Reinstate Appeal (the "Order") conflicts with the decisions of this Court or another Court of Appeals. Further, Petitioner fails to demonstrate that the Eleventh Circuit's Order relates in any way to an important federal question that has not been settled by this Court. In fact, the Petitioner, appearing *pro se*, has failed to make any attempt whatsoever to show any compelling reason that would constitute a sufficient ground to grant the Petition. Finally no legal authority has been cited by Petitioner to support his legal basis for the granting of the Petition. Therefore, the Petition should be denied.

STATEMENT OF THE CASE

This Petition emanates from a course of litigious conduct by a *pro se* litigant who has had his day in court and has exhausted all post-judgment and appellate remedies available. This course of conduct has been so redundant, burdensome and harassing that the trial court actually sanctioned the Petitioner for filing redundant and frivolous post trial pleadings. To avoid further sanction, the Petitioner engaged in a continuing plan of forum shopping. In each instance thereafter, every lower court has denied the relief requested by the Petitioner. As a result of the forum shopping by the

Petitioner, the path of litigation leading to this Court is outlined below:

1. Bankruptcy Court Chapter 13 – Case Number 00-42086-LMK;

2. United States District Court for he Northern District of Florida – Case Number 04-00127-MCR-EMT;

3. Adversary Bankruptcy Case – Case Number 05-03012-MAM;

4. United States District Court for the Northern District of Florida, sitting in its appellate capacity – Case Number 05-00404-RV-MD;

5. United States District Court for the Northern District of Florida, sitting in its appellate capacity – Case Number 06-00474-MCR-EMT;

6. United States Court of Appeals for the Eleventh Circuit - Case Number 06-12505-JJ;

7. United States Court of Appeals for the Eleventh Circuit – Case Number 07-10349-F; and

8. Supreme Court of the United States – docket number 07-1021.

Each and every post-judgment motion and appeal sought to re-argue the underlying trial court's ruling. The Eleventh Circuit Order that is the subject matter of the Petition relates to the denial of Petitioner's Motion for Reconsideration of the Eleventh Circuit's prior Order Denying Petitioner's Motion to Reinstate Appeal after the appeal was dismissed. In light of the lengthy and protracted course of litigation, coupled with the fact that Petitioner had his day in court and has exhausted his post-judgment and appellate remedies, it is clear that no compelling reasons exist to grant the Petition.

REASONS FOR DENYING THE PETITION

The Eleventh Circuit's Order does not conflict with the decisions of this Court or any Court of Appeals, nor does it implicate a federal question that has not been decided by this Court. Accordingly, the Petitioner has not carried his burden of demonstrating any "compelling reasons" for the Petition to be granted. Sup. Ct. R. 10.

The only arguments raised in the Petition relate to purported errors in docketing and case numbers related to the multiple proceedings commenced by the Petitioner in the various forums. There is no recitation of any compelling reason(s) to grant the Petition. To the contrary, the Petition evidences that the Petitioner is seeking multiple bites at the apple by seeking rehearing and/or reinstatement to appeals that have been dismissed. Petitioner is seeking to re-argue and re-try his case that was ruled upon at the trial level. Proof of this can be found in the Order being appealed and the motions filed relating thereto.

After a trial court ruling and an appeal thereof was dismissed, subsequent appeals were taken to the Eleventh Circuit which were also dismissed. Petitioner's Motion for Reconsideration before the Eleventh Circuit specifically stated in its conclusion that: "Appellant requests this Court to reverse the trial court, to vacate the final judgment and to remand this action for a trial on the merits. However, if it is possible, Appellant respectfully prays that this case be tried by this Honorable Court."

Based on the relief requested by Petitioner in his Motion for Reconsideration, it is clear that he was not seeking reversal of the denial of a Motion to Reinstate his appeal. To the contrary, Petitioner was seeking to reverse the underlying case on its merits. Thus, in reality, Petitioner is really seeking review of the trial court's ruling. This Court will not grant certiorari to review a decision that turns solely upon an analysis of facts, or to determine whether the evidence supports a judgment of a district court or an administrative agency. As to such issues, the Courts of Appeal are generally the courts of last resort. *NLRB v. Pittsburgh Steamship Co.*, 340 U.S. 498, 71 S.Ct. 453, 95 L. Ed. 479 (1951); *23 Moores Federal Practice*, § 510-33(4)(a) (Matthew Bender 3d Ed.)

I. Factual and Procedural Background Leading Up To This Petition.

The filing of the Petition represent the Petitioner's attempt to obtain post judgment relief in 12 forums. The following is a brief chronological history of the case leading up to the filing of this Petition. It demonstrates the frivolity and repetitive nature of Petitioner's litigious course of conduct.

A. United States Bankruptcy Court for the Northern District of Florida. Case No. 00-4208-LMK

Petitioner filed a Joint Petition under Chapter 13 of Title 11 with his wife on October 11, 2000. Thereafter, on July 12, 2001, the Bankruptcy Court entered an Order confirming the Debtors' Second Amended Plan. Notwithstanding the achievement of an Order of Confirmation, on February 23, 2004, based upon post-confirmation defaults by the Debtors, the underlying bankruptcy case was dismissed and closed.

B. United States District Court for the Northern District of Florida, Pensacola Division Case Number 04-00127 MCR-EMT

On April 12, 2004, Petitioner filed a lawsuit against Respondent in the United States District Court for the Northern District of Florida, Pensacola Division. The Complaint filed by Petitioner was dismissed with leave to amend on numerous occasions. With respect to Respondent's Motion to Dismiss the Third Amended Complaint, the District Court ruled, *inter alia*, that the

majority of the counts in the Third Amended Complaint should be dismissed for lack of jurisdiction. The District Court, on October 28, 2004, entered an order adopting a Report and Recommendation of the Magistrate Judge which dismissed, for lack of jurisdiction, the majority of counts in Plaintiff's Third Amended Complaint. The balance of the counts that sought damages under 11 U.S.C. § 362(k) were referred to the Bankruptcy Court for adjudication. At no time was the district court order of October 28, 2004 ever appealed, either on an interlocutory or final basis.

C. United States Bankruptcy Court for the Northern District of Florida, Pensacola Division Adversary Case Number 05-03012-MAM

The Bankruptcy Judge, in the adversary proceeding, entered an order on July 12, 2005 which held that there remained three claims of Petitioner that required adjudication. The three claims all related to Petitioner's assertions that Respondent had violated the automatic stay in bankruptcy.

In response to these three remaining claims, Respondent file a Motion for Summary Judgment on May 19, 2005. On July 12, 2005, the Bankruptcy Court entered an order with respect to Respondent's Motion for Summary Judgment by granting in part and denying in part said Motion. More specifically, the Bankruptcy Court ruled that summary judgment was granted as to Count I, Count II and that portion of Count III as it related to post-confirmation payments. The Bankruptcy

Court denied the Motion as to Count III as it related to the pre-confirmation payments.

Thereafter, Respondent filed a Supplemental Motion for Summary Judgment as to the sole remaining open issue relative to Count III. On September 26, 2005, the Supplemental Motion for Summary Judgment filed by Respondent was granted in part and denied in part. The Bankruptcy Court ruled that Respondent did, in fact, violate the automatic stay by requiring payments from Petitioner's assets that were higher than the post-petition debt required. As a result, on September 26, 2005 the Court entered Final Judgment for damages in favor of Petitioner against Respondent in the amount of $400.00 in actual damages and $2,000.00 in punitive damage.[1]

D. United States District Court for the Northern District of Florida, Sitting in its Appellate Capacity Case Number 05-00404-RV-MD

On October 25, 2005, Petitioner filed a Notice of Appeal respecting the Bankruptcy Court's Final Judgment with the United States District Court for the Northern District of Florida, Pensacola Division (sitting in its appellate capacity) seeking to appeal the Judgment of the Bankruptcy Court which had, in fact, ruled in Petitioner's favor. On December 27, 2005, the United

[1] Respondent has tendered payment of $2,400.00 to Petitioner on more than four separate occasions; however, Petitioner has returned to Respondent's counsel all tendered checks and to date, continues to refuse to accept Respondent's payment in full of said Final Judgment rendered in the Bankruptcy Court.

States District Court for the Northern District of Florida, Pensacola Division (in its appellate capacity) entered an Order dismissing with prejudice Petitioner's appeal of the Bankruptcy Court's Final Judgment.

E. Return to the United States Bankruptcy Court for the Northern District of Florida, Pensacola DivisionAdversary Case Number 05-03012-MAM

Still not satisfied with the trial court's ruling (which was appealed and ultimately dismissed on appeal), Petitioner commenced a course of action of continually filing post-judgment motions with the Bankruptcy Court which ultimately resulted in an admonishment by the Bankruptcy Judge that any further filing of pleadings would result in a sanction against Petitioner. The pleadings leading up to the Court's warning were:

i. On November 28, 2005, Petitioner filed a Motion for Relief in the bankruptcy proceeding which, in effect, sought a rehearing of the Court's prior ruling. On December 5, 2005, the Bankruptcy Court entered an Order denying Petitioner's requested relief for the reasons set forth in Respondent's Response. Further, the Bankruptcy Judge in the adversary proceeding specifically stated in the December 5, 2005 Order that "Mr. Han has had his day in court. Between the U.S. District Court and this Court, all of the causes of action he raised had been ruled

upon. There is nothing that remains to be tried or reconsidered."

ii. Still not satisfied with the Court's final ruling, on December 12, 2005, Petitioner filed a further pleading entitled "Motion for Harmless Error and Motion for Stay of Judgment as to Multiple Claims" in the adversary proceeding. Once again, the Bankruptcy Court denied Petitioner's requested relief for the reasons raised in the Responses filed by Respondent. The Court's December 21, 2005 Order reiterated the same language; to wit: "Mr. Han has had his day in court. Between the U.S. District Court and this Court, all of the causes of action he raised had been ruled upon. There is nothing that remains to be tried or reconsidered."

iii. Still not satisfied, Petitioner filed a "Motion for Harmless Error" on January 3, 2006 which continued to request the same relief in his prior pleadings. Frustrated by Petitioner's continual post-judgment filings, the Bankruptcy Court entered an Order on January 11, 2006, once again denying Petitioner's request for relief and further ordering that "Plaintiff refrain from filing any further motions in this court regarding this adversary proceeding or sanctions will be imposed." The Order further warned Petitioner that

> any further filings with the Bankruptcy Court would result in the imposition of Rule 9011 sanctions in the amount of $500.00. Specifically, the Bankruptcy Judge stated in the January 11, 2006 order that:
>
> Despite the fact that Han appealed the Bankruptcy Court's final order to the District Court, he has now filed three post judgment motions in this Court. All of Han's postjudgment motions have contained virtually identical content and all three motions have been denied. Given these facts, plus the fact that the Court has already issued Han a warning against additional filings and informed him of the possibility of sanctions in its December 21, 2005 order, this Court will consider any additional filings by Han to be sanctionable under Rule 9011 and will penalize him $500.00 for the first such filing with additional penalties for any filings thereafter.

F. Return to United States District Court for the Northern District of Florida, Pensacola Division Case Number 04-00127 MCR-EMT

With the threat of sanctions and after being warned and admonished by the Bankruptcy Court, Petitioner sought further post-judgment relief by returning to and filing in the United States District Court for the Northern District of Florida, Pensacola Division, a

Motion to Reopen Case for Retrial and for Trial on March 14, 2006. Petitioner's motion sought the identical relief that had been sought on numerous occasions in the Bankruptcy Court which had resulted in the Bankruptcy Court admonishment and potential sanction. The District Court entered an Order on April 4, 2006 denying Petitioner's request for relief. This Order of the District Court denying Petitioner's Motion to Reopen Case for Retrial was the subject matter of Petitioner's first appeal to the Eleventh Circuit.

G. United States Court of Appeals for the Eleventh Circuit Case Number 06-12505-JJ

With respect to Petitioner's first appeal to the Eleventh Circuit related to the April 4, 2006 Order Denying Motion to Reopen Case and Retrial, said appeal was dismissed on June 15, 2006 by Entry of Dismissal.

H. Second Return to the United States Bankruptcy Court for the Northern District of Florida, Pensacola Division Adversary Case Number 05-03012-MAM

With the dismissal of Petitioner's first appeal to the Eleventh Circuit, Petitioner filed, in direct contravention of the warnings and admonition of the Bankruptcy Judge, a Motion to Reopen the adversary bankruptcy proceeding. On September 5, 2006, this Motion to Reopen was denied by the Bankruptcy Court and Petitioner was sanctioned with a fine of $500.00 to be paid to the Clerk of the Bankruptcy Court.

In further contravention of the Bankruptcy Judge's authority, Petitioner filed a Supplemental Motion to Reopen on September 11, 2006. On September 13, 2006, this Supplemental Motion to Reopen was also denied and a further sanction of $500.00 was entered by the Court. Thereafter, on September 26, 2006, Petitioner filed a Second Appeal respecting the Bankruptcy Court's Orders denying his Motions to Reopen.

I. Second Appeal to United States District Court for the Northern District of Florida, Sitting in its Appellate Capacity Case Number 06-00474-MCR-EMT

This second appeal to the United States District Court for the Northern District of Florida, sitting in an appellate capacity, was dismissed by order of the District Court entered December 21, 2006.

J. Return to United States District Court for the Northern District of Florida, Pensacola Division Case Number 04-00127 MCR-EMT

Running out of forums to file papers, on January 4, 2007, Petitioner filed a Motion for Rehearing in the original 2004 District Court case. The District Court entered an order on January 4, 2007 directing the clerk to return the Motion for Rehearing without filing and advised the Petitioner that the case was closed on 12/28/04 and that he should refrain from filing any further documents in this case.

K. Return to the United States Court of Appeals for the Eleventh Circuit Case Number 07-10349

Immediately thereafter, Petitioner filed a Notice of Appeal to the Eleventh Circuit relating to the District Court's Order of January 4, 2007 denying rehearing since the case was closed. This second appeal to the Eleventh Circuit was dismissed on March 13, 2007. On April 4, 2007, Petitioner filed a Motion to Reinstate the Appeal which was denied on April 12, 2007. Thereafter, Petitioner filed a Motion for Reconsideration which was also denied on June 25, 2007. It is these most recent Orders related to the denial of Petitioner's Motion to Reinstate Appeal and Motion for Reconsideration that are the subject matter of the Petition.

L. United States Supreme Court

The Petitioner has filed a direct appeal to this Court from the Eleventh Circuit. However, no compelling reason(s) have been stated in the Petition.

II. No Compelling Reasons Have Been Stated in the Petition.

A. The only reasons stated in the Petition relate to application of various rules of procedure in various courts. The chronological events listed above clearly evidence three points. First, Petitioner has had his day in court and has exhausted all post-judgment and appellate remedies. Second, Petitioner has engaged in a course of conduct in multiple forums to circumvent the

threat of sanctions by the trial judge. Finally, all procedures in every court in which Petitioner has sought relief have been followed with particularity and there has been no departure whatsoever from any accepted and usual course of judicial proceedings.

B. Absent a clear demonstration of compelling reasons to grant the Petition, said Petition must be denied. In fact, extraordinary writs are drastic and extraordinary remedies to be reserved for extraordinary causes in which an appeal is clearly an inadequate remedy. *In Re: McDonald*, 489 U.S. 180, 109 S. Ct. 993, 103 L. Ed.2d. 158 (1989).

CONCLUSION

Based on the foregoing, Petitioner has not established any compelling reason(s) for this Court to grant the Petition. Therefore, Respondent respectfully requests that the Petition be denied.

Respectfully submitted,

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